

**MINUTES OF THE REGULAR MEETING OF THE
COMMON COUNCIL OF THE CITY OF JASPER, INDIANA
NOVEMBER 18, 2009**

A meeting of the Common Council of the City of Jasper, Indiana, was held on Wednesday, November 18, 2009, in the Council Chambers of City Hall located at 610 Main Street, Jasper, Indiana.

Call to Order. Presiding Officer Mayor William J. Schmitt called the meeting to order at 7:00 p.m.

Roll Call.

Mayor William J. Schmitt	Present
Council members:	
John Schroeder	Present
David Prechtel	Present
Thomas Schmidt	Present
Ambrose 'Butch' Schitter	Present
Kevin Manley	Present
Randall Buchta	Present
Raymond Howard	Present
City Attorney Sandra Hemmerlein	Present
Clerk-Treasurer Juanita S. Boehm	Present

Clerk-Treasurer Juanita Boehm announced that in order to have a quorum for the meeting, a majority of the council members must be in attendance. All council members were in attendance; therefore, there was a quorum for the meeting.

PLEDGE OF ALLEGIANCE

Mayor Schmitt invited all those present to join him in reciting the Pledge of Allegiance.

APPROVAL OF THE MINUTES

The following minutes were distributed to and examined by the Council:

1. October 21, 2009 regular Common Council meeting
2. October 21, 2009 6:45 p.m. public hearing concerning Ordinance No. 2009-31 that revises the water rates and charges

A **motion** was made by Council member Ambrose 'Butch' Schitter and seconded by Council member Randy Buchta to approve the minutes as published. Motion carried 7-0.

Comprehensive Plan Report. Kevin Senninger, representing RATIO Architects, said their firm has been working with Strategic Development Group and with A and F Engineers during the comprehensive plan update process. A series of five stakeholder interviews were held at the Train Depot on September 16th. A public workshop was held in the evening of September 16th at the Habig Center. Senninger said the firms are gathering the public input, analyzing it and

presenting it to the steering committee. There was a steering committee meeting earlier this evening. He then said they will come back to the public probably in mid January and share the recommendations. He said there was good feed back and they received good information.

Council member Ray Howard asked about a completion date. Senninger said probably mid to late summer.

Mayor Schmitt asked if any areas such as from larger companies are lacking in providing information. Senninger said he contacted some business leaders and did phone interviews because they could not attend a workshop because of their schedules. Schmitt said he expected more people to be at the workshop. He then suggested RATIO do a better job of advertising the next public meeting.

Senninger said for the next workshop in January they plan to advertise at more public places. Council member Ambrose 'Butch' Schitter suggested placing a flyer in the monthly utility bill.

Utility Service Board. General Manager of Utilities Gerald 'Bud' Hauersperger gave a report on the regular monthly Utility Service Board meeting held on November 16, 2009. Copies of the minutes are supplied to each council member.

During Hauersperger's report, he said the Utility Service Board recommended the City become a plaintiff in a multiple-plaintiff lawsuit against the manufacturers of the agricultural herbicide, atrazine. Hauersperger said the City has always been well below the allowable levels from the EPA for atrazine in the water, but Baron and Budd, the law firm leading the case, thinks all atrazine should be removed from the water with methods such as Granular Activated Carbon (GAC) systems, of which Jasper has been doing since 2001. This law firm believes water treatment facilities should be reimbursed from the manufacturer of atrazine for costs for this expensive system. The Utility Service Board feels there could be some money awarded to the City to help pay for ongoing treatment costs. Some plaintiffs have already committed and Baron and Budd hope to have about sixty plaintiffs in the case. The goal of the lawsuit is not to ban the use of atrazine, but to remove as much atrazine from the water as possible.

City Attorney Sandra Hemmerlein said there would be no upfront cost to the City unless a recovery is received, of which the amount owed by the City could not be more than the amount awarded. An opt-out clause will also be added to allow the City to back out of the lawsuit at any time with no money being owed. The national law firm of Baron and Budd from Dallas, Texas will manage the case along with Korein Tillery from St. Louis, Missouri. Hemmerlein said becoming a plaintiff in the lawsuit needs approval from the Council, since it will be the City becoming a plaintiff and they would need to give the Mayor the authority to sign any paper work such as an agreement for legal services. If there are any issues that need to be addressed on the local level, the law firm of Bingham McHale will assist the City.

Council member John Schroeder said after reading the article in the paper he had learned a lot. Some farmers feel it is a slap to them.

Mayor Schmitt said he received phone calls from farmers and businesses that apply it. The farmers said atrazene has been used for thirty years and Dubois County is a strong agricultural area. The lawsuit could affect the farmers in the long run.

Council member Ambrose 'Butch' Schitter said we already have the carbon caps at the plant so it could be we will not get anything back monetarily but they would use us for testing.

Council member David Prechtel questioned what could be next after atrazene and why haven't more filed as plaintiffs.

Council member John Schroeder said like Dave said, what's next. Are we perfect on everything we discharge?

Hauersperger said if we do not get involved in the law suit then there's no chance of getting a piece of the money.

Bill Kaiser, an attorney with the Bingham McHale law firm, said the City spent money and made improvements and installed filters several years ago. This may be an opportunity to recover some of that money. If other communities get money, as a ratepayer I would wonder why Jasper didn't participate and get some of the money to help maintain our improvements. Kaiser said he thinks it is a good opportunity.

Council member Raymond Howard asked if we have to join the lawsuit now or can we wait? Kaiser said the City has to decide now because once the case moves forward, one cannot join in.

Council member Randall Buchta said because there are plaintiffs already, the case will go forward whether we participate or not. The lawsuit would affect farmers the same way whether the City participates or not.

Mayor Schmitt said the Utility Service Board recommended we become a plaintiff.

A **motion** was made by Council member Ambrose 'Butch' Schitter and seconded by Council member Kevin Manley to go with the recommendation of the Utility Service Board to enter into litigation, to enter into a legal services agreement, and grant the Mayor the authority to sign documents. Motion carried 6-1 with Council members Prechtel, Schmidt, Schitter, Manley, Buchta, and Howard voting aye and with Council member Schroeder voting nay.

JCAC. JCAC President Mike Jones said appointments for four of the eleven-member Board expire at the end of this year. Jones said he is appointed by the Council and his term will expire. Doug Abbott's term expires but since he moved

out of the City limits he cannot be re-appointed. The term for the member appointed by the School Board and the term for the member appointed by the Park Board ends on December 31.

Jones then reported that the Arts Department received a 5% cut from the IAC, but he felt they would not have to sacrifice any programs. He then said they are still committed to the building expansion project but the fundraising committee is currently on hold. Jones added that if the City wants to take the Arts seriously then at some time they will need to expand.

4th Street storm sewer and sidewalk improvement project. After City Engineer Chad Hurm gave an update on the 4th Street project, he presented a change order in the amount \$19,774.91 for additional curb and gutter and for additional storm sewer work.

Mayor Schmitt said the Board of Public Works and Safety recommended approving the change order at last Tuesday's meeting and forwarded it to this board since the Council was the awarding body for the bid. City Attorney Sandra Hemmerlein said the Council needs to re-confirm and approve the change order and grant the Board of Public Works and Safety the authority to act on any other change orders and on other documents.

A **motion** was made by Council member David Prechtel and seconded by Council member Kevin Manley to approve the change order. Motion carried 7-0.

A **motion** was made by Council member John Schroeder and seconded by Council member Ray Howard to grant the Board of Public Works and Safety the authority to approve change orders and address any other items or documents for the 4th Street project. Motion carried 7-0.

Re-Schedule December 23 Meeting. Mayor Schmitt suggested having the December 23rd council meeting during the day rather than at 7:00 p.m. After some discussion the Council members agreed to move the meeting to noon on December 23.

ORDINANCE NO. 2009-33 AN ORDINANCE TO TRANSFER APPROPRIATIONS FOR THE CITY OF JASPER, INDIANA, FOR THE REMAINDER OF THE FISCAL YEAR ENDING DECEMBER 31, 2009.

A motion was made by Council member Thomas Schmidt, seconded by Council member Ambrose 'Butch' Schitter and approved 7-0 to consider the ordinance for one reading only. Thereafter, a motion was made by Council member Randy Buchta, seconded by Council member Ray Howard and approved 7-0 to have the ordinance read by title only. The ordinance was so read. Thereafter, a motion was made by Council member Ambrose 'Butch' Schitter and seconded by Council member David Prechtel to pass and adopt Ordinance No. 2009-33. Motion carried 7-0.

ORDINANCE NO. 2009-34 AN ORDINANCE APPROVING AND AUTHORIZING A LOAN OF FUNDS BETWEEN THE ELECTRIC DISTRIBUTION DEPARTMENT AND THE WATER DEPARTMENT WITHIN JASPER MUNICIPAL UTILITIES, AND OTHER MATTERS CONNECTED THEREWITH

This ordinance approves a loan from the Electric Department to the Water Department in an amount not to exceed \$300,000.00.

A motion was made by Council member Kevin Manley, seconded by Council member Thomas Schmidt and approved 7-0 to consider the ordinance for one reading only. Thereafter, a motion was made by Council member Ambrose 'Butch' Schitter, seconded by Council member Randy Buchta and approved 7-0 to have the ordinance read by title only. The ordinance was so read. Thereafter, a motion was made by Council member Randy Buchta and seconded by Council member Ambrose 'Butch' Schitter to pass and adopt Ordinance No. 2009-34. Motion carried 7-0.

Under discussion, this ordinance came as a recommendation from the Utility Service Board. Gerald 'Bud' Hauersperger, General Manager of Utilities, explained the water department's need to borrow the funds. He stated the loan should be paid off by December 31, 2011.

ORDINANCE NO. 2009-35 AN ORDINANCE AMENDING ORDINANCE NO. 2002-54 ENTITLED AN ORDINANCE ESTABLISHING FEES FOR ACTIVITIES OF THE JASPER DEPARTMENT OF PARKS AND RECREATION

This ordinance sets fees for train excursions to Dubois and sets special fees for the Friends of the Train.

A motion was made by Council member Ambrose 'Butch' Schitter, seconded by Council member David Prechtel and approved 7-0 to consider the ordinance for one reading only. Thereafter, a motion was made by Council member Randy Buchta, seconded by Council member Thomas Schmidt and approved 7-0 to have the ordinance read by title only. The ordinance was so read. Thereafter, a motion was made by Council member Ambrose 'Butch' Schitter and seconded by Council member Thomas Schmidt to pass and adopt Ordinance No. 2009-35. Motion carried 7-0.

Under discussion, City Attorney Sandra Hemmerlein said this amendment sets fees for train excursions to Dubois and sets special fees for those groups who made significant donations towards the renovation of the City train cars. These groups are known as Friends of the Train. She added that there is a time limit for the discounted fees. The amendment also says special event tickets or charters are set by the Board of Public Works and Safety. An example of such an event is when the Downtown Merchants want to use the train for O'Tannenbaum days.

ADJOURNMENT. There being no further business to come before the Council, a motion was made by Council member Thomas Schmidt and seconded by Council member Randy Buchta to adjourn the meeting. The motion carried 7-0 and the meeting adjourned at 8:17 p.m.

The minutes were hereby approved ____ with X without corrections or clarification this 23rd day of December, 2009.

Mayor William J. Schmitt
Presiding Officer

Attest:

Juanita S. Boehm, Clerk-Treasurer

Margaret A. Kress, Recording Secretary